

SECOND REGULAR SESSION

HOUSE BILL NO. 1286

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOPPE.

Pre-filed December 19, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3378L.011

AN ACT

To repeal section 247.040, RSMo, and to enact in lieu thereof one new section relating to public water supply districts.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 247.040, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 247.040, to read as follows:

247.040. 1. Proceedings for the formation of a public water supply district shall be substantially as follows: a petition in duplicate describing the proposed boundaries of the district sought to be formed, accompanied by a plat of the proposed district, shall be filed with the clerk of the circuit court of the county wherein the proposed district is situate, or with the clerk of the circuit court of the county having the largest acreage proposed to be included in the proposed district, in the event that the proposed district embraces lands in more than one county. Such petition, in addition to such boundary description, shall set forth an estimate of the number of customers of the proposed district, the necessity for the formation of the district, the probable cost of the improvement, an approximation of the assessed valuation of taxable property within the district and such other information as may be useful to the court in determining whether [or not] the petition should be granted and a decree of incorporation entered. Such petition shall be accompanied by a cash deposit of fifty dollars as an advancement of the costs of the proceeding, and the petition shall be signed by **either the owners of record of two-thirds by area of all real property located within the boundaries of the proposed district, or by** not less than fifty voters within the proposed district and shall pray for the incorporation of the territory therein described into a public water supply district. The petition shall be verified by at least one of the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 signers thereof.

18 2. Upon the filing of the petition, the same shall be presented to the circuit court, and
19 such court shall fix a date for a hearing on such petition, as herein provided for. Thereupon the
20 clerk of the court shall give notice of the filing of the petition in some newspaper of general
21 circulation in the county in which the proceedings are pending, and if the district extends into
22 any other county or counties, such notice shall also be published in some newspaper of general
23 circulation in such other county or counties. The notice shall contain a description of the
24 proposed boundary lines of the district and the general purposes of the petition, and shall set
25 forth the date fixed for the hearing on the petition, which shall not be less than fifteen nor more
26 than twenty-one days after the date of the last publication of the notice and shall be on some
27 regular judicial day of the court wherein the petition is pending. Such notice shall be signed by
28 the clerk of the circuit court and shall be published in three successive issues of a weekly
29 newspaper or [in twenty successive issues of] **once a week for three successive weeks in a daily**
30 **newspaper. As an alternative to newspaper publication of the notice, the petitioners may**
31 **direct the clerk of the court to give notice of the filing of the petition by certified mail to the**
32 **owners of record of all real property located within the proposed boundaries of the district.**
33 **The cost of the certified notification shall be borne by the petitioners.**

34 3. The court, for good cause shown, may continue the case or the hearing thereon from
35 time to time until final disposition thereof.

36 4. Exceptions to the formation of a district, or to the boundaries outlined in the petition
37 for the incorporation thereof, may be made by any voter of the proposed district; provided, such
38 exceptions are filed not less than five days prior to the date set for the hearing on the petition.
39 Such exceptions shall specify the grounds upon which the exceptions are being made. If any
40 such exceptions be filed, the court shall take them into consideration in passing upon the petition
41 and shall also consider the evidence in support of the petition and in support of the exceptions
42 made. Should the court find that the petition should be granted but that changes should be made
43 in the boundary lines, it shall make such changes in the boundary lines as set forth in the petition
44 as to the court may seem meet and proper, and thereupon enter its decree of incorporation, with
45 such boundaries as changed.

46 5. Should the court find that it would not be to the public interest to form such a district,
47 the petition shall be dismissed at the costs of the petitioners. If, however, the court should find
48 in favor of the formation of such district, the court shall enter its decree of incorporation, setting
49 forth the boundaries of the proposed district as determined by the court pursuant to the aforesaid
50 hearing. The decree of incorporation shall also divide the district into five subdistricts and shall
51 fix their boundary lines, all of which subdistricts shall have approximately the same area and
52 shall be numbered. The decree shall further contain an appointment of one voter from each of

53 such subdistricts, to constitute the first board of directors of the district. No two members of
54 such board so appointed or hereafter elected or appointed shall reside in the same subdistrict,
55 except as provided in section 247.060. If no qualified person who lives in the subdistrict is
56 willing to serve on the board, the court may appoint, or the voters may elect, an otherwise
57 qualified person who lives in the district but not in the subdistrict. The court shall designate two
58 of such directors so appointed to serve for a term of two years and one to serve for a term of one
59 year. [And] The directors thus appointed by the court shall serve for the terms thus designated
60 and until their successors shall have been appointed or elected as herein provided. The decree
61 shall further designate the name and number of the district by which it shall hereafter be
62 officially known.

63 **6. If the court shall find that the petition has been signed by the owners of record**
64 **of at least two-thirds by area of all real property located within the boundaries of the**
65 **proposed district, the decree of incorporation shall become final and conclusive. If the**
66 **court shall find that the petition has been signed by the owners of record of less than two-**
67 **thirds by area of all real property within the boundaries of the proposed district then the**
68 decree of incorporation shall not become final and conclusive until it shall have been submitted
69 to the voters residing within the boundaries described in such decree and until it shall have been
70 assented to by a majority of the voters as provided in subsection 9 of this section or by two-thirds
71 of the voters of the district voting on the proposition. The decree shall provide for the
72 submission of the question and shall fix the date thereof. The returns shall be certified by the
73 judges and clerks of election to the circuit court having jurisdiction in the case and the court shall
74 thereupon enter its order canvassing the returns and declaring the result of such election.

75 7. If, upon canvass and declaration, it is found and determined that the question shall
76 have been assented to by a majority of two-thirds of the voters of the district voting on such
77 proposition, then the court shall, in such order declaring the result of the election, enter a further
78 order declaring the decree of incorporation to be final and conclusive. In the event, however, that
79 the court should find that the question had not been assented to by the majority above required,
80 the court shall enter a further order declaring such decree of incorporation to be void and of no
81 effect. No appeal shall lie from any such decree of incorporation nor from any of the aforesaid
82 orders. In the event that the court declares the decree of incorporation to be final, as herein
83 provided for, the clerk of the circuit court shall file certified copies of such decree of
84 incorporation and of such final order with the secretary of state of the state of Missouri, and with
85 the recorder of deeds of the county or counties in which the district is situate and with the clerk
86 of the county commission of the county or counties in which the district is situate.

87 8. The costs incurred in the formation of the district shall be taxed to the district, if the
88 district [be] is incorporated otherwise against the petitioners.

89 9. If petitioners seeking formation of a public water supply district specify in their
90 petition that the district to be organized shall be organized without authority to issue general
91 obligation bonds, then the decrees relating to the formation of the district shall recite that the
92 district shall not have authority to issue general obligation bonds and the vote required for such
93 a decree of incorporation to become final and conclusive shall be a simple majority of the voters
94 of the district voting on such proposition.